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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,328	07/02/2001	Masaakira Horino	010830	6708

23850 7590 10/17/2002

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WASHINGTON, DC 20006

EXAMINER

OSTRUP, CLINTON T

ART UNIT	PAPER NUMBER
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1614

DATE MAILED: 10/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/895,328

Applicant(s)

HORINO, MASAAKIRA

Examiner

Clinton Ostrup

Art Unit

1614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☒ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 2-14.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_.

Continuation of 2. NOTE: The added limitations to independent claim2, wherein a powder now comprises a base core substance with hydroxyapatite layer on the surface of said core, and a zinc oxide layer on said hydroxyapatite, was not previously claimed and these limitation would require further consideration and another search by the examiner. Therefore, the amendment has not been entered and claims 2-14 are rejected for reasons set forth in th previous Office actions, Paper Nos. 4 and 6.

Continuation of 5. does NOT place the application in condition for allowance because: it adds new claim limitations, which were not previously searched and/or considered. The newly added claim limitations require an additional search and further consideration to determine patentability because the scope of the claims have been changed from a base substance usable as a powder for cosmetics with hydroxyapatite coated on the surface (either inside the base powder or outside the base powder), and zinc oxide fixed to the coating layer of said hydroxyapatite (not that it is layers on said hydroxyapatite) to a base core substance usable as a powder for cosmetics, a hydroxyapatite layer on the surface of said core, and a zinc oxide layer on said hydroxyapatite. Therefore, claims 2-14 are rejected for the reasons set forth in Office Actions 4 and 6.

FREDERICK KRASS  
PRIMARY EXAMINER  
GROUP 1600  


